

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

Criminal No. 2:23-cr-20699-02

v.

Hon. Gershwin A. Drain

EDWARD D. SWANSON,

Defendant.

**UNITED STATES' COMBINED MOTION AND BRIEF FOR
DOWNWARD DEPARTURE UNDER U.S.S.G. §5K1.1**

The United States hereby moves for a downward departure from the Sentencing Guidelines range under U.S.S.G. §5K1.1. As explained below, the Defendant provided substantial assistance in the investigation and prosecution of his co-conspirators. Therefore, the United States requests that the Court depart downward twenty-five percent from the bottom of the Defendant's applicable Guidelines incarceration range as determined by the Court.

Under U.S.S.G §5K1.1, the Court, upon motion of the United States, may depart from the Guidelines based on the Defendant's substantial assistance in the investigation or prosecution of another person. When determining the appropriateness and scope of any such departure, the Court may consider a variety of factors, including:

1. The significance and usefulness of the Defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
2. The truthfulness, completeness, and reliability of the Defendant's information;
3. The nature and extent of the Defendant's assistance;
4. Any injury suffered, or any danger or risk of injury to the Defendant or his family resulting from his assistance; and
5. The timeliness of the Defendant's assistance.

U.S.S.G. §5K1.1. Here, the United States makes this request because the Defendant provided significant and useful assistance, truthful and complete information, and was timely with his assistance.

The Defendant provided significant and useful information that was relevant in uncovering the extent of two bid-rigging conspiracies. The Defendant explained the scope and nature of the conspiracies, and detailed specific instances of illegal conduct taken by himself as well as his co-conspirators. This information was significant in furthering the United States' investigation into the Southeastern Michigan asphalt paving industry, including the investigation of co-conspirator individuals and companies that have since pleaded guilty for their participation in the conspiracies.

The Defendant's information about his and his co-conspirators' bid-rigging practices was truthful and complete. The Defendant agreed to a voluntary interview in which he provided information about various aspects of the bid-rigging conspiracies, including specific practices and terminology used by the conspirators, and specific instances of illegal conduct, which was corroborated by other witnesses and documentary evidence.

The Defendant's assistance ultimately was timely despite some delay between the time that the Defendant became aware of the United States' investigation and his commitment to cooperate. The Defendant nonetheless was the first individual to cooperate and provide significant and useful information about the scope and nature of the conspiracies. The timeliness of the Defendant's cooperation allowed the United States to focus its investigation into the asphalt paving industry and save prosecutorial and investigative resources.

For the foregoing reasons, the United States moves under U.S.S.G. §5K1.1 for a twenty-five percent downward departure from the bottom of the Defendant's applicable Guidelines incarceration range as determined by the Court. The United States respectfully submits that the recommended departure appropriately recognizes the value of the Defendant's assistance.

Respectfully submitted,

/s/ Ruben Martinez, Jr.

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Dated: May 21, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/Ruben Martinez, Jr.
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